

IC 27-16-2

Chapter 2. Definitions

IC 27-16-2-1

Application of definition

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-2

"Administrative fee"

Sec. 2. (a) "Administrative fee" means the fee charged to a client by a professional employer organization for professional employer services.

(b) The term does not include any amount charged to a client by a professional employer organization for wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid by a professional employer organization to or on behalf of a covered employee.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-3

"Client"

Sec. 3. "Client" means a person that enters into a professional employer agreement with a professional employer organization.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-4

"Co-employed"

Sec. 4. "Co-employed" means that an individual is contemporaneously employed by both a client and a professional employer organization.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-5

"Co-employer"

Sec. 5. "Co-employer" refers to a client or a professional employer organization that has entered into a professional employer agreement and has a relationship with a co-employed individual.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-6

"Co-employment relationship"

Sec. 6. "Co-employment relationship" means a relationship:

(1) between a:

(A) client and a professional employer organization; or

(B) co-employer and a covered employee; and

(2) that results from the client and the professional employer organization entering into a professional employer agreement.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-7**"Commissioner"**

Sec. 7. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-8**"Covered employee"**

Sec. 8. (a) "Covered employee" means an individual who is co-employed.

(b) The term includes an individual who is an officer, a director, a shareholder, a partner, or a manager of a client to the extent the professional employer organization and the client expressly agree that the individual:

(1) is described in subsection (a); and

(2) acts as an operational manager or performs day to day operational services for the client;

as reflected in the professional employer agreement.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-9**"Department"**

Sec. 9. "Department" refers to the department of insurance created by IC 27-1-1-1.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-10**"PEO group"**

Sec. 10. "PEO group" means two (2) or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-11**"Person"**

Sec. 11. "Person" means an individual, a partnership, a corporation, a limited liability company, an association, or another legally recognized entity.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-12**"Professional employer agreement"**

Sec. 12. "Professional employer agreement" means a written contract between a person and a professional employer organization:

(1) under which all or a majority of the person's employees become covered employees;

(2) that provides for the allocation of employer rights and obligations between the person and the professional employer organization with respect to the covered employees; and

(3) that specifies the professional employer services that will be

provided.
As added by P.L.245-2005, SEC.7.

IC 27-16-2-13

"Professional employer organization" or "PEO"

Sec. 13. (a) "Professional employer organization" or "PEO" means a person engaged in the business of providing professional employer services.

(b) The term does not include the following:

(1) An arrangement through which a person:

(A) whose principal business activity is an activity other than entering into professional employer agreements; and

(B) that does not hold the person out as a professional employer organization;

shares employees with a commonly owned company within the meaning of Section 414(b) and 414(c) of the Internal Revenue Code of 1986, as amended.

(2) An independent contractor arrangement through which a person:

(A) assumes responsibility for a product produced or a service performed by the person or the person's agent; and

(B) retains and exercises primary direction and control over the work performed by an individual whose services are supplied under the independent contractor arrangement.

(3) The provision of temporary help services.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-14

"Professional employer services"

Sec. 14. "Professional employer services" means the services that are provided to a client by a professional employer organization under a professional employer agreement.

As added by P.L.245-2005, SEC.7.

IC 27-16-2-15

"Temporary help service"

Sec. 15. "Temporary help service" means a service consisting of a person that:

(1) recruits and hires the person's own employees, not including an officer, a manager, or a controlling person of a client to which the person's own employee is assigned by the person;

(2) identifies organizations that need the services of employees described in subdivision (1);

(3) assigns employees described in subdivision (1) to:

(A) perform work or services for organizations described in subdivision (2);

(B) support or supplement the workforces of organizations described in subdivision (2); or

(C) provide assistance in special work situations, including employee absences, skill shortages, seasonal workloads, and

special assignments or projects; and
(4) customarily attempts to reassign the employees described in
subdivision (1) to other organizations when an assignment
described in subdivision (3) is completed.

As added by P.L.245-2005, SEC.7.